

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

GERALD NASH ELECTRIC, INC.,

Plaintiff,

v.

U.S. BANK, N.A.,

Defendant.

CV-24-08-H-BMM-JTJ

ORDER

INTRODUCTION

Plaintiff Gerald Nash Electric, Inc., (“Plaintiff”) filed a status update pursuant to the Court’s order to show cause (Doc. 4) on August 1, 2024. (Doc. 5.) Plaintiff requests that the Court order defendant U.S. Bank, N.A. (“U.S. Bank”) to respond to Plaintiff’s complaint or to otherwise appear in this action. (*Id.* at 2.)

Plaintiff filed its complaint on January 19, 2024. (Doc. 1). Plaintiff provided evidence of having served U.S. Bank on January 22, 2024. (Doc. 3.) Fed. R. Civ. P. 12(a)(1)(A)(i) requires that a defendant provide an answer or other responsive pleading within 21 days after having been served with the summons and complaint. Fed R. Civ. P. 55(a) provides that when a party has failed to plead or otherwise defend, the clerk of court must enter the party’s default.

The Court fails to locate authority supporting the Court's power to order a party who has not appeared in an action to answer or otherwise appear. The Court declines to grant the relief sought by Plaintiff. The Court, upon a future motion by Plaintiff, may be inclined to conduct a hearing concerning U.S. Bank's potential default. The Court remains mindful that default serves to protect diligent parties from "interminable delay and continued uncertainty as to [their] rights." *Boland v. Yocabel Const. Co.*, 293 F.R.D. 13, 17 (D.D.C. 2013) (citation omitted).

ORDER

Accordingly, **IT IS ORDERED:**

1. Plaintiff's motion to compel answer (Doc. 5) is **DENIED**.

DATED this 1st day of August 2024.



Brian Morris, Chief District Judge
United States District Court